

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KEITH EDWARDS as Guardian and Conservator for JERRY BLASINGAME,)	
)	
Plaintiff,)	
)	CIVIL ACTION
)	FILE NO: 1:19-CV-2047-SCJ
v.)	
)	
OFFICER J. GRUBBS, #6416; and CITY OF ATLANTA/ATLANTA POLICE DEPT,)	
)	
Defendants.)	
)	

**DEFENDANTS CITY OF ATLANTA AND OFFICER J. GRUBBS’
MOTION TO QUASH PLAINTIFF’S SUBPOENA**

COME NOW, Defendants City of Atlanta and Officer J. Grubbs (hereinafter “City Defendants”) and file this motion to quash Plaintiff’s subpoena, showing the Court as follows:

I. FACTUAL BACKGROUND

On July 21, 2022, Plaintiff mailed a subpoena to the City Defendants requesting that they produce “unredacted training records and performance evaluations from 2017-2018 relative to Defendant Jon Grubbs”.¹ Plaintiff gave no

¹ Subpoena attached as Exhibit A.

notice to the City Defendants via a notice of filing or even an email that said subpoena had been mailed.² The date specified for production in the subpoena is August 1, 2022, less than fourteen (14) days after the date of the subpoena.³ However, the City Defendants did not receive the subpoena until July 26, 2022, less than seven (7) days before the subpoenaed documents were to be produced⁴ and less than fourteen (14) days before the trial against the City Defendants is scheduled to begin.

II. ARGUMENT AND CITATIONS TO AUTHORITY

Pursuant to Federal Rule of Civil Procedure 45(a)(4):

(4) Notice to Other Parties Before Service. If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served on the person to whom it is directed, a notice and a copy of the subpoena must be served on each party.

Thus, notice must be given to *each party before* a subpoena is served when the subpoena requests the production of documents, electronically stored information, or tangible things.⁵ Additionally, pursuant to Federal Rule of Civil Procedure

² See generally, Docket.

³ Exhibit A.

⁴ *Id.*

⁵ Fed. R. Civ. P. 45(a)(4).

45(d)(3)(A)(i), “[o]n a timely motion, the court for the district where compliance is required ***must quash or modify*** a subpoena that: (i) fails to allow a reasonable time to comply... [and/or] (iv) subjects a person to undue burden.”⁶

In the present matter, the City Defendants received neither notice of the subpoena before it was served as required by Federal Rule of Civil Procedure 45(a)(4) nor a reasonable time to comply from the date of service as required by Federal Rule of Civil Procedure 45(d)(3)(A)(i). Thus, pursuant to Federal Rule of Civil Procedure 45(d)(3)(A)(i), the subpoena ***must*** be quashed or modified.⁷ Given the untimeliness of the subpoena and the impending nature of the trial in this matter that is set to begin in less than fourteen (14) days, this Court should quash the subpoena to thwart any attempts at trial by surprise from the Plaintiff. Any other course of action would subject the City Defendants to undue burden, in violation of Federal Rule of Civil Procedure 45(d)(3)(A)(iv).

III. CONCLUSION

For the foregoing reasons, the City Defendants respectfully request that this Court quash Plaintiff’s subpoena as it violates Federal Rule of Civil Procedure 45. No prior notice of the subpoena was given to the City Defendants as required by

⁶ *Id.* at 45(d)(3)(A)(i).

⁷ *Id.*

Federal Rule of Civil Procedure 45(a)(4) and the City Defendants were given less than fourteen (14) days from the time of receipt to respond. This kind of trial by surprise tactic should not be allowed by this Court.

This the 29th day of July 2022.

RESPECTFULLY SUBMITTED,

/s/ Staci J. Miller

STACI J. MILLER

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CERTIFICATION

Counsel for the City Defendants hereby certifies that the foregoing has been prepared with Times New Roman font, 14 point, and therefore it complies with the requirements of L.R. 5.1(C).

Respectfully Submitted,

/s/ Staci J. Miller

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Attorneys for City Defendants

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CERTIFICATE OF SERVICE

This is to certify that I have this day served all parties with a copy of the following:

- **DEFENDANTS CITY OF ATLANTA AND OFFICER J. GRUBBS' MOTION TO QUASH SUBPOENA**

via the CM/ECF Electronic Filing System upon all counsel of record.

This 29th day of July, 2022.

RESPECTFULLY SUBMITTED,

/s/ Staci J. Miller
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